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January 7, 2009

FILED VIA ECF & UNDER SEAL

Hon. Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11217

Re: United States v. Guzman Loera, S4 09 CR 466 (BMC)

Dear Judge Cogan:

I am writing on behalf of defendant Joaquin Guzman Loera to supplement the defendant's January 6, 2019 response (Dkt. No. 529) to the government's January 3, 2019 motion *in limine* (Dkt. No. 522) seeking to preclude cross-examination of Christian Rodriguez concerning his mental illness and subsequent treatments. Shortly after the defendant's Sunday evening filing, the government made additional § 3500 disclosures, some of which involved Mr. Rodriguez and were germane to the issue of his mental health. Specifically, the prosecution turned over 3500-COR-87, which is the transcript to text message conversations between Mr. Rodriguez and his FBI handler, "Bob." These conversations span from August 3, 2017 until December 31, 2018.

As noted in both the government's motion *in limine* and in the defendant's response, when considering whether to permit cross-examination on the subject of a witness's mental illness or impairment, the criteria considered by the Court are the nature of the impairment, remoteness in time and whether the impairment covered the time period about which the witness will testify. See Dkt. No. 522, at p. 2. The defendant's response pointed out that the Court should also consider whether the impairment is related to the subject matter of the witness's testimony and, if so, favors admission. Dkt. No. 529, at p. 2; United States v. Sasso, 59 F.3d 341, 347 (2nd Cir. 1995).

Within the text message conversations contained in 3500-COR-87, there are several communications sent from Mr. Rodriguez which support the defendant's position that this line of cross-examination is relevant and appropriate. Mr. Rodriguez notes that he has difficulty sleeping (p. 6); that he wants his current and previous psychiatrists to conference about his condition (pp. 6-7); that he wants his medication adjusted because he is having "horrible" days

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and “really need[s] help from [his] doctor” (p.7); that he is feeling “paranoid” (p. 8); and that it all relates to “C,” who he wishes only to be identified to his new psychiatrist as a Colombian drug dealer (p. 7).¹

There can be no argument that these conversations are pertinent to all the criteria which the Court uses to evaluate whether the witness’s mental health is an appropriate subject for cross-examination. The witness claims he is experiencing paranoia, which is a significant malady, and one in which the subject (often delusionally) believes malevolent forces are working against him. Additionally, the text messages at issue here are sent between October and November 2017, which negates any claim that the conditions Mr. Rodriguez experienced are too remote in time to be deemed relevant. Indeed, by the government’s own admission, these conditions started in 2013 and are still ongoing. Dkt. No. 522, at pp. 2-3. Finally, by the witness’s own admission, these conditions relate to his time working with narcotics traffickers, which is clearly the subject matter of his expected testimony.

For the reasons provided in the defendant’s original response (Dkt. No. 529), as well as the supplemental information contained herein, the government’s motion *in limine* should be denied.

Respectfully submitted,



Jeffrey Lichtman

cc: All counsel (by email and ECF)

¹ The relevant pages of 3500-COR-87 are attached as Exhibit A.